

## ***APPENDIX Q***

### **MONTANA DEPARTMENT OF COMMERCE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM**

#### **CERTIFICATIONS FOR APPLICATION**

Each applicant must agree to comply with all applicable State and federal laws and regulations in implementing their proposed CDBG project, if it is selected for funding. A copy of the Certifications for Application signed (page Q-13) by the chief elected official or executive officer of the applicant and dated within six months of the date of application, must accompany the application for CDBG funds.

Applicants should carefully review these requirements and consider their potential impact when designing their CDBG project. Listed in the following Certifications for Application are the most important federal regulations that apply to projects using CDBG funds.

The regulations listed cover a wide range of issues including environmental impacts, labor standards, employment practices, financial procedures, and civil rights, many of which can have an affect on the costs or complexity of project implementation. Each federal law or regulation is annotated to give the applicant a general understanding of the requirements that must be met.

Since this is a brief summary and not intended to be a comprehensive description of each law, local officials who have any questions or concerns regarding the applicability of these requirements should contact the Department of Commerce for guidance.

**MONTANA DEPARTMENT OF COMMERCE  
STATE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM**

***CERTIFICATIONS FOR APPLICATION***

The Applicant hereby certifies that:

**ACCEPTANCE OF CDBG PROGRAM REQUIREMENTS**

It will comply with all applicable parts of Title I of the Housing and Community Development Act of 1974, as amended, which have not been cited herein as well as with other applicable federal laws and regulations.

It will comply with all requirements established by the Department of Commerce and applicable State laws, regulations, and administrative procedures.

It accepts the terms, conditions, selection criteria, and procedures established by the Montana Community Development Block Grant (CDBG) Program and expressly waives any statutory or common law right it may have to challenge the legitimacy and propriety of these terms, conditions, criteria, and procedures in the event that it is not selected for an award of CDBG funds.

**ACQUISITION, DISPLACEMENT AND RELOCATION**

It will minimize displacement as a result of activities assisted with CDBG funds and assist persons actually displaced.

It will comply with:

- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (The Uniform Act) as amended, and implementing regulations 49 CFR part 24 and the requirements of section 570.496a. These laws and accompanying regulations require the grantee to provide relocation payments and offer relocation assistance to all persons displaced as a result of acquisition of real property for an activity assisted under the CDBG program. Such payments and assistance must be provided in a fair and consistent and equitable manner that ensures that the relocation process does not result in a different or separate treatment of such persons on account of race, color, religion, national origin, sex, source of income, age, handicap, or familial status (families with children). The grantee must assure that, within a reasonable period of time prior to displacement, decent, safe and sanitary replacement dwellings will be available to all displaced families and individuals and that the range of choices available to such persons will not vary on account of their race, color, religion, national origin, sex, source of income, age, handicap, or familial status (families with children); and

- The grantee must also inform affected persons of their rights and of the acquisition policies and procedures set forth in the regulations of 49 CFR, Part 24, Subpart B.
- The Anti-displacement and Relocation Assistance Plan adopted by the Montana Department of Commerce for the Montana CDBG program.

### **ASSESSMENTS FOR PUBLIC IMPROVEMENTS**

It will not attempt to recover any capital costs of public improvements assisted in whole or part with CDBG funds by assessing any amount against properties owned and occupied by persons of low and moderate income, including any fee charged or assessment made as a condition of obtaining access to such public improvements, unless:

- a. CDBG funds are used to pay the proportion of such fee or assessment that relates to the capital costs of such public improvements that are financed from revenue sources other than CDBG funds; or,
- b. for purposes of assessing any amount against properties owned and occupied by persons of low and moderate income who are not persons of very low income, the applicant certifies that it lacks sufficient CDBG funds to comply with the requirements of clause a., above.

### **BUILDING STANDARDS**

It will require every building or facility (other than a privately owned residential structure) designed, constructed, or altered with funds provided under the Montana CDBG Program to comply with the "American Standard Specifications for Making Buildings and Facilities Accessible to, and Usable by, the Physically Handicapped," Number A-117.1R 1971, subject to the exceptions contained in CFR 101-19.604. It will also comply with the Architectural Barriers Act of 1968 and HUD regulations 24 CFR part 8, "Nondiscrimination Based on Handicap in Federally Assisted Activities of HUD." The applicant will be responsible for conducting inspections to insure compliance with these specifications by the contractor; and will comply with HUD Cost-Effective Energy Standards, 24 CFR Part 39.

### **CITIZEN PARTICIPATION**

It will comply with the detailed Citizen Participation Plan adopted by the Montana Department of Commerce for the Montana CDBG program.

### **CIVIL RIGHTS, EQUAL OPPORTUNITY, AND FAIR HOUSING REQUIREMENTS**

#### **Civil Rights**

It will comply with Title VII of the Civil Rights Act of 1964 (42 U.S.C. d et seq.), and the regulations issued pursuant thereto (24 CFR Part 1), which provides that no person in the United States shall on the grounds of race, color, or national origin, be excluded from

participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the applicant received Federal financial assistance and will immediately take any measures necessary to effectuate this assurance. If any real property or structure thereon is provided or improved with the aid of Federal financial assistance extended to the applicant, this assurance shall obligate the applicant, or in the case of any transfer of such property, any transferee, for the period during which the real property or structure is used for a purpose for which the Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits.

### **Equal Opportunity**

It will comply with:

- Section 109 of the Housing and Community Development Act of 1974 as amended, and the regulations issued pursuant thereto (24 CFR 570.601), which provides that no person in the United States shall, on the grounds of race, color, national origin, or sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with funds provided under the Act;
- The Age Discrimination Act of 1975, as amended (42 U.S.C. 6101 et seq.). The act provides that no person shall be excluded from participation, denied program benefits or subjected to discrimination on the basis of age under any program or activity receiving federal funding assistance;
- Section 504 of the Rehabilitation Act of 1973, amended (29 U.S.C. 794). The act provides that no otherwise qualified individual shall, solely, by reason of his or her disability, be excluded from participation (including employment), denied program benefits or subjected to discrimination under any program or activity receiving federal assistance funds;
- Section 3 of the Housing and Community Development Act of 1968 (12 U.S.C. 170/u) (24 CFR Part 135). Section 3 of the Housing and Urban Development Act of 1968 requires, in connection with the planning and carrying out of any project assisted under the Act, to the greatest extent feasible, opportunities for training and employment be given to lower-income persons residing within the unit of local government or the non-metropolitan county in which the project is located, and contracts for work in connection with the project be awarded to eligible business concerns which are located in, or owned in substantial part, by persons residing in the project area. The grantee must assure good faith efforts toward compliance with the statutory directive of Section 3; and
- Executive Order 11246, as amended by Executive Orders 11375 and 12086, and the regulations issued pursuant thereto (24 CFR Part 130 and 41 CFR Chapter 60) prohibit a CDBG recipient and subcontractors, if any, from discriminating against any employee or applicant for employment because of race, color, religion, sex or national origin. The grantee and subcontractors, if any, must take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex or

national origin. Such action must include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rate of pay or other forms of compensation; and selection for training, including apprenticeship. The grantee and subcontractors must post in conspicuous places, available to employees and applicants for employment, notices to be provided setting for the provisions of this nondiscrimination clause. For contracts over \$10,000 the grantee or subcontractors will send to each applicable labor union a notice of the above requirements, the grantee and subcontractors will comply with relevant rules, regulations and orders of the U.S. Secretary of Labor. The grantee or subcontractors must make their books and records available to State and federal officials for purposes of investigation to ascertain compliance.

### **Fair Housing**

It will affirmatively further fair housing and will comply with:

- Title VIII of the Civil Rights Act of 1968 (also known as The Fair Housing Act) (42 U.S.C. 3601 et seq.), as amended by the Fair Housing Amendments Act of 1988 and the regulations issued pursuant thereto. The law states that it is the policy of the United States prohibiting any person from discriminating in the sale or rental of housing, the financing of housing, or the provision of brokerage services, including in any way making unavailable or denying a dwelling to any person, because of race, color, religion, sex, national origin, disability, or familial status. CDBG grantees must also administer programs and activities relating to housing and community development in a manner that affirmatively promotes fair housing and furthers the purposes of Title VIII; and
- Executive Order 11063, as amended by Executive Order 12259, requires CDBG recipients to take all actions necessary and appropriate to prevent discrimination because of race, color, religion, creed, sex or national origin; in the sale, leasing, rental and other disposition of residential property and related facilities (including land to be developed for residential use); or in the use or occupancy thereof if such property and related facilities are, among other things, provided in whole or in part with the aid of loans, advances, grants or contributions from the federal government.

### **Prohibition of Discrimination on Basis of Religion**

It will comply with section 109(a) of the Housing and Community Development Act that prohibits discrimination on the basis of religion or religious affiliation. No person will be excluded from participation in, denied the benefit of, or be subjected to discrimination under any program or activity funded in whole or in part with CDBG funds on the basis of his or her religion or religious affiliation.

### **Prohibition of Excessive Force**

It will, if awarded CDBG funds, adopt and enforce a policy prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any

individuals engaged in nonviolent civil rights demonstrations in accordance with Section 104(1) of the Housing and Community Development Act, as amended.

### **ADA Compliance**

It will do a self-assessment of impediments to accessibility in compliance with the Americans with Disabilities Act (ADA) of 1990. Grantees are required to find a means of making CDBG program activities and services accessible to persons with disabilities; to review their communities for impediments to disabled citizens; and develop a plan to address those impediments.

### **CONFLICT OF INTEREST**

It will comply with the provisions of 24 CFR 570.611 and with sections 2-2-125, 2-2-201, 7-3-4367, 7-5-2106, and 7-5-4109, MCA, (as applicable) regarding the avoidance of conflict of interest.

### **ENVIRONMENTAL REQUIREMENTS**

#### **Air Quality**

It will comply with the Clean Air Act (42 U.S.C. 7401, et seq.) which prohibits engaging in, supporting in any way or providing financial assistance for, licensing or permitting, or approving any activity which does not conform to the State implementation plan for national primary and secondary ambient air quality standards.

#### **Environmental Impact**

It will comply with:

- Section 104(f) of the Housing and Community Development Act of 1974, as amended through 1981. This section expresses the intent that "the policies of the National Environmental Policy Act of 1969 and other provisions of law which further the purposes of such Act be most effectively implemented in connection with the expenditure of funds under" the Act. Such other provisions of law which further the purpose of the National Environmental Policy Act of 1969 are specified in regulations issued pursuant to Section 104(f) of the Act and contained in 24 CFR Part 58; and
- The National Environmental Policy Act of 1969 (42 U.S.C. Section 4321, et seq. and 24 CFR Part 58). The purpose of this Act is to attain the widest use of the environment without degradation, risk to health or safety or other undesirable and unintended consequences. Environmental review procedures are a necessary part of this process. Pursuant to these provisions, the grantee must also submit environmental certifications to the Department of Commerce when requesting that funds be released for the project. The grantee must certify that the proposed project will not significantly impact the environmental regulations and fulfilled its obligations to give public notice of the funding request, environmental findings and compliance performance.

Its chief executive officer or other officer of the applicant approved by the State:

1. consents to assume the status of responsible federal official under the National Environmental Policy Act of 1969 (NEPA) and other provisions of federal law, as specified in 24 CFR Part 58, which further the purposes of NEPA, insofar as the provisions of such federal law apply to the Montana Community Development Block Grant Program; and
2. is authorized and consents on behalf of the applicant and himself to accept the jurisdiction of the Federal courts for the purpose of enforcement of his responsibilities as such an official.

### **EPA List of Violating Facilities**

It will ensure that the facilities under its ownership, lease or supervision which shall be utilized in the accomplishment of the program are not listed on the U.S. Environmental Protection Agency's (EPA) List of Violating Facilities and that it will notify the Department of Commerce of the receipt of any communication from the Director of the EPA Office of Federal Activities indicating that a facility to be used in the project is under consideration for listing by EPA.

### **Farmlands Protection**

It will comply with the Farmlands Protection Policy Act of 1981 (7 U.S.C. 4202, et seq.) and any applicable regulations (7 CFR Part 658) which established compliance procedures for any federally assisted project which will convert farmlands designated as prime, unique or statewide or locally important, to non-agricultural uses.

### **Floodplain Management and Wetlands Protection**

It will comply with:

- the Flood Disaster Protection Act of 1973, Public Law 93-234, 87 Stat. 975, approved December 31, 1973. Section 102(a) required, on and after March 2, 1974, the purchase of flood insurance in communities where such insurance is available as a condition for the receipt of any federal financial assistance for construction or acquisition purposes for use in any area that has been identified by the Secretary of the Department of Housing and Urban Development as an area having special flood hazards. The phrase "Federal financial assistance" includes any form of loan, grant, guaranty, insurance payment, rebate, subsidy, disaster assistance loan or grant, or any other form of direct or indirect Federal assistance;
- Executive Order 11988, May 24, 1978: Floodplain Management (42 F.R. 26951, et seq.). The intent of this Executive Order is to (1) avoid, to the extent possible, adverse impacts associated with the occupancy and modification of floodplain and (2) avoid direct or indirect support of floodplain development wherever there is a practical alternative. If a grantee proposes to conduct, support or allow an action to be located in the floodplain, the grantee must consider alternatives to

avoid adverse effects and incompatible involvement in the floodplains. If siting in a floodplain is the only practical alternative, the grantee must, prior to taking any action: (1) design or modify its actions in order to minimize a potential harm to the floodplain; and (2) prepare and circulate a notice containing an explanation of why the action is proposed to be located in a floodplain; and

- Executive Order 11990, May 24, 1977: Protection of Wetlands (42 F.R. 26961, et seq.). The intent of this Executive Order is to avoid adverse impacts associated with the destruction or modification of wetlands and direct or indirect support of new construction in wetlands, wherever there is a practical alternative. The grantee must avoid undertaking or providing assistance for new construction located in wetlands unless there is no practical alternative to such construction and the proposed action includes all practical measures to minimize harm to wetlands which may result from such use.

### **Historic Preservation**

It will comply with:

- Section 106 of the National Historic Preservation Act of 1966 (16 U.S.C. 470, as amended) through completion of the procedures outlined in 36 CFR 800 and 36 CFR 63. Compliance with these procedures should include:
  1. consulting with the State Historic Preservation Office (SHPO) to identify properties listed in or eligible for inclusion in the National Register of Historic Places that exist with a proposed CDBG project's area of potential environmental impact, and/or to determine the need for professional archeological, historical, or architectural inventory of potentially affected properties to determine whether they would qualify for register listing; and
  2. consulting, as needed with the SHPO, Keeper of the National Register of Historic Places, and the Advisory Council on Historic Preservation to evaluate the significance of historic or prehistoric properties which could be affected by CDBG work and to determine how to avoid or mitigate adverse effects to significant properties from project work.



### **Lead-Based Paint**

It will comply with Title IV of the Lead-based Paint Poisoning Prevention Act (42 U.S.C. 4831), which prohibits the use of lead-based paint in residential structures constructed or rehabilitated with federal assistance of any kind. In addition, it will comply with Sections 1012 and 1013 of the Residential Lead-Based Paint Hazard Reduction Act that is Title X of the Housing and Community Development Act of 1992. This is the basic law covering lead-based paint in federally associated housing. This new regulation appears within title 24 of the Code of Federal Regulations as part 35 (24CR 35).

### **Noise, Facility Siting**

It will comply with HUD Environmental Standards (24 CFR, Part 51, Environmental Criteria and Standards and 44 F.R. 40860-40866, July 12, 1979) which prohibit HUD support for most new construction of noise-sensitive uses is prohibited in general for projects with unacceptable noise exposures is discouraged for projects with normally unacceptable noise exposure. Additionally projects may not be located near facilities handling materials of an explosive or hazardous nature, or in airport clear zones.

### **Solid Waste**

It will comply with the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (42 U.S.C. Section 6901, et seq.). The purpose of this Act is to promote the protection of health and the environment and to conserve valuable material and energy resources.

### **Water Quality**

It will comply with:

- the Safe Drinking Water Act of 1974 (42 U.S.C. Section 201, 300(f) et seq. and U.S.C. Section 349), as amended, particularly Section 1424(e) (42 U.S.C. Section 300H-303(e)) which is intended to protect underground sources of water. No commitment for federal financial assistance can be entered into for any project which the U.S. Environmental Protection Agency determines may contaminate an aquifer which is the sole or principal drinking water source for an area; and
- the Federal Water Pollution Control Act of 1972, as amended, including the Clear Water Act of 1977, Public Law 92-212 (33 U.S.C. Section 1251, et seq.) which provides for the restoration and maintenance of the chemical, physical and biological integrity of the nation's water.

### **Wildlife**

It will comply with:

- the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.). The intent of this Act is to ensure that all federally assisted projects seek to preserve

endangered or threatened species. Federally authorized and funded projects must not jeopardize the continued existence of endangered and threatened species or result in the destruction or modification of habitat of such species which is determined by the U.S. Department of the Interior, after consultation with the state, to be critical; and

- the Fish and Wildlife Coordination Act of 1958, as amended, (U.S.C. 661 et seq.) which requires that wildlife conservation receives equal consideration and is coordinated with other features of water resource development programs.

### **Wild and Scenic Rivers**

It will comply with the Wild and Scenic Rivers Act of 1968, as amended (16 U.S.C. 1271, et seq.). The purpose of this Act is to preserve selected rivers or sections of rivers in their free-flowing condition, to protect the water quality of such rivers and to fulfill other vital national conservation goals. Federal assistance by loan, grant, license or other mechanism can not be provided to water resources construction projects that would have a direct and adverse effect on any river included or designated for study or inclusion in the National Wild and Scenic River System.

### **FINANCIAL MANAGEMENT**

It will comply with the applicable requirements of:

- OMB Circular A-87, "Cost Principles for State and Local Governments," as specified by the Department of Commerce;
- HUD "Administrative Requirements for Grant and Operative Agreements to State, Local, and Federally-Recognized Indian Tribal Governments," (24 CFR, Part 85), or any equivalent procedures and requirements that the Montana Department of Commerce may prescribe. The HUD Administrative Requirements are the basis for a number of specific requirements on the financial management and record keeping of CDBG funds. The requirements apply to cash depositories, bonding and insurance, record keeping, program income, property management, procurement, closeout, audit, and other requirements; and
- The Single Audit Act of 1984, as amended by the Single Audit Act of 1996 ( the "Single audit Act Amendments") which establishes criteria for determining the scope and content of audits and OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations", revised June 24, 1997. (OMB Circular A-133 supersedes OMB Circular A-128, "Audits of State and Local Governments", which has been rescinded.)

It will promptly refund to the Montana Department of Commerce any CDBG funds determined by an audit to have been spent in an unauthorized or improper manner or for ineligible activities.

It will give the Montana Department of Commerce, the Montana Legislative Auditor, HUD, and the Comptroller General, through any authorized representatives, access to and the right to examine all records, books, papers, or documents related to the grant.

### **LABOR STANDARDS**

It will comply with:

- Section 110 of the Housing and Community Development Act of 1975, as amended, 24 CFR 570.605, and State regulations regarding the administration and enforcement of labor standards. Section 110 requires that all laborers and mechanics employed by contractors or subcontractors on construction work assisted under the Act shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276-1- 276a-5). By reason of the foregoing requirement the Contract Work Hours and Safety Standards Act (40 U.S.C. 327 et seq.) also applies. However, these requirements apply to rehabilitation of residential property only if such property is designed for residential use for eight or more families;
- Davis-Bacon Act, as amended (40 U.S.C. et seq.), Section 2; June 13, 1934, as amended (48 Stat. 948.40 U.S.C. 276(c)), popularly known as the Copeland Anti-Kickback Act. The Act mandates that all laborers and mechanics be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account except "permissible" salary deductions, the full amounts due at the time of payments, computed at wage rates not less than those contained in the wage determination issued by the U.S. Department of Labor. Weekly compliance statements and payrolls are required to be submitted to the federally funded recipient by the contractor;
- Contract Work Hours and Safety Standards Act (40 U.S.C. 327 et seq.). According to the Act, no contract work may involve or require laborers or mechanics to work in excess of eight hours in a calendar day, or in excess of 40 hours in a work week, unless compensation of not less than one and one-half times the basic rate is paid for the overtime hours. If this Act is violated, the contractor or subcontractor is liable to any affected employee for unpaid damages as well as to the United States for liquidated damages; and
- Federal Fair Labor Standards Act, (29 U.S.C.S. 201 et seq.). The act requires that covered employees be paid at least the minimum prescribed wage, and also that they be paid one and one-half times their basic wage rate for all hours worked in excess of the prescribed workweek.

## **LEGAL AUTHORITY**

It certifies that it possesses legal authority to apply for the grant and to execute the proposed project under Montana law and, if selected to receive a Community Development Block Grant, will make all efforts necessary to assure timely and effective implementation of the project activities described in the attached application.

## **LOBBYING**

It certifies that:

- No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influencing an officer or employee or any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

## **POLITICAL ACTIVITY**

It will comply with the Hatch Act (5 U.S.C. 1501, et seq.; 5 CFR Part 151) which restricts the political activity of individuals principally employed by a state or local agency in connection with a program financed in whole or in part by federal loans or grants. An affected employee may not be a candidate for public office in a partisan election.

## **PROCUREMENT**

Consulting Services will be procured in a manner that provides fair and unbiased, full and open competition, without conflicts of interest.

---

---

### **AUTHORIZATION TO SUBMIT THE APPLICATION**

The Applicant's governing body has duly adopted or passed as an official act a resolution, motion or similar action authorizing the submission of the application, including all understandings and assurances contained herein, and directing and authorizing the signatory to act in connection with the application and to provide such additional information as may be required.

---

Signature, Chief Elected Official  
(or Executive Officer)

---

Name (typed or printed)

---

Title

---

Date

---

Federal Tax ID Number

---

Montana Senate District

---

Montana House District(s)

**CITIZEN PARTICIPATION PLAN**  
**FOR**  
**THE MONTANA COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PROGRAM**

**A. Purpose**

Pursuant to Section 104(a)(3) of the Housing and Community Development Act, the Montana Department of Commerce (MDOC) has prepared the following detailed Citizen Participation Plan. The intent of this plan is to ensure that the citizens of Montana, particularly persons of low and moderate income residing in slum and blight areas, or areas in which CDBG funds are proposed to be used, are provided the opportunity and encouraged to participate in the planning and implementation of CDBG-funded activities.

**B. Responsibilities of the Montana Department of Commerce**

1. Prior to submitting its annual CDBG Application Guidelines to the U. S. Department of Housing and Urban Development (HUD), MDOC will in a timely manner:
  - a. furnish interested citizens and eligible local governments information concerning the amount of funds available for proposed community development and housing activities and the range of activities that will benefit persons of low and moderate income, the State's community development objectives, and the projected use of CDBG funds;
  - b. publish proposed application guidelines in such a manner to provide affected citizens an opportunity to examine the contents and to submit comments on the proposed guidelines and on the community development performance of MDOC; and
  - c. hold one or more public hearings to obtain the views of citizens on community development and housing needs as authorized by Section 90-1-103, MCA, and under the procedures established by the Montana Administrative Procedures Act, Title 2, Chapter 4, MCA.
2. After providing reasonable notice, the public may review Department of Commerce files pertaining to the past use of CDBG funds under the State CDBG program at the Department's office in Helena, Montana;
3. The Montana Department of Commerce will give citizens and Montana's local governments reasonable notice of, and an opportunity to comment on, any proposed change in the method of distribution of CDBG funds or any major amendment of the Montana CDBG Program Guidelines. The Department will:

- a. publish a notice of the proposed change in order to provide citizens and Montana's counties and municipalities reasonable notice of the change;
- b. consider comments received from citizens and local government officials prior to making a final decision regarding the change;
- c. publish the change; and
- d. submit a copy of the change to HUD.

### **C. Responsibilities of CDBG Applicants and Recipients**

1. Citizen participation in the preparation of CDBG applications:
  - a. Applicants must provide citizens, especially low and moderate-income residents for whom CDBG funds will benefit, an adequate notice and opportunity for meaningful involvement in the planning and development of CDBG applications.
  - b. At a minimum, the applicant must hold two public hearings, one before preparing the application and one prior to passage of a resolution by the governing body authorizing the submission of the application. The public hearings may be conducted either as part of a regularly scheduled meeting of the governing body or as hearings convened especially for CDBG purposes.

Applicants reapplying for the same project submitted unsuccessfully in the previous year must still hold at least one public hearing prior to the passage of the resolution by the governing body authorizing the submission of the application. The applicant should hold the hearing not more than three months prior to the date of application.

- c. A record of the required hearings must be submitted with the application for CDBG funds, along with copies of the public notices for the hearings or affidavits of publication for the notices. A verbatim record is not necessary; the names of persons who attended and a summary of comments by local officials and citizens are sufficient.
- d. The first public hearing is intended to give citizens an opportunity to identify and discuss their community's overall needs and priorities, including the needs of low and moderate income persons, and to propose possible community improvement projects before the local government decides what project or projects it will seek assistance for. To minimize duplication, local governments may use advertised public hearings related to their planning program or other funding applications to meet the CDBG requirement for a public hearing prior

to preparation of their CDBG application, as long as overall community needs and possible solutions are addressed. **An increasing number of Montana counties and cities are cooperating to publicize and hold joint, annual hearings to consider overall community development and housing needs for both the city and county.** By this means, a single public hearing can meet the requirements of several state or federal programs, such as the MDOC CDBG, HOME, or Treasure State Endowment Program (TSEP). This approach can also make participation more convenient for the public or interested organizations or groups. The first public hearing should be held not more than eighteen months prior to the date of application.

- e. The purpose of the second public hearing is to give citizens and potential beneficiaries of the proposed CDBG project (especially low and moderate income persons) adequate opportunity to consider the potential impacts and benefits of the community's proposed project and to comment on it, before the community submits the application. At this hearing specific CDBG program requirements and related project issues should be reviewed. For example, if taxes or user charges will need to be increased as part of financing a CDBG project, it is especially important that residents understand the necessity of raising user costs. The second public hearing should be held not more than three months prior to the date of application.
- f. Notice of each public hearing should be published at least once in a newspaper of general circulation in the community at least seven days prior to the hearing. In addition to the published notices, the applicant should make reasonable efforts to inform citizens of the hearings who may be affected by a CDBG project but who might not be reached through formal newspaper notices. Examples of actions applicants may take to ensure citizen participation include meeting with community groups and leaders prior to public hearings, holding informational meetings, distributing notices of public meetings to residents, or posting of notices in ways customary to the community. These efforts should be especially concentrated in any neighborhood that may be affected by a proposed CDBG project. The hearings should be scheduled at times and locations which will encourage broad citizen participation. (Communities without a newspaper may substitute alternatives such as radio announcements, mailed notices, and posters.)

#### **D. Responsibilities of Both MDOC and CDBG Applicants and Recipients.**

##### **1. Public Hearings**

- a. Public hearings will be the primary means of obtaining citizen views and responding to proposals and questions related to community



development and housing needs, proposed CDBG activities and past CDBG performance. The required CDBG "hearings" do not have to be formally structured or even be conducted in a hearing format to meet the CDBG public hearing requirement. The CDBG program encourages a setting that promotes open discussion and an exchange of ideas regarding community development needs, priorities, and possible solutions.

- b. Formal public notice will be provided before such public hearings. As circumstances warrant and as MDOC and cities, towns and counties determine necessary or appropriate, notice may additionally be specifically directed to persons of low and moderate income, those persons benefiting from or affected by CDBG activities and/or representatives of such persons. Hearings will be held at times and locations convenient to potential and actual beneficiaries and with accommodation for the handicapped. In the case of public hearings where a significant number of non-English speaking residents can reasonably be expected to participate, arrangements will be made to have an interpreter present.

2. Access to Records, Meetings, Information

- a. MDOC and local government applicants for or recipients of CDBG funds will provide citizens with reasonable and timely access to local meetings, information, and records relating to the proposed actual use of CDBG funds.
- b. Information and records regarding the proposed and past use of CDBG funds will be available at the Montana Department of Commerce, Community Development, Helena, Montana, and at a location designated by each CDBG applicant and grant recipient during regular office hours.

3. Technical Assistance

The Montana Department of Commerce and Montana cities, towns and counties will provide technical assistance to groups representative of persons of low and moderate income that request assistance in developing CDBG proposals. The level and type of assistance that is appropriate will be determined by the Department and each governing body based on its ability to provide or arrange for such assistance, the cost of providing such assistance, and other relevant factors.

4. Complaints and Grievances

MDOC and Montana cities, towns and counties will respond to written complaints and grievances concerning their CDBG activities in writing and

in a timely manner. When practicable, such written responses shall be made within fifteen (15) working days.

5. Montana Law

MDOC and local government applicants for, and recipients of, CDBG funds shall afford Montana citizens reasonable opportunity to participate in governmental actions and decision making as provided under Montana law (Title 2, Chapter 3, MCA).

6. Grant Amendment

- a. All grantees must request prior approval of grant amendments such as those involving new activities or alteration of the existing activities or budget or lengthening of the schedule for project implementation, as proposed in the grant application and/or negotiated in the grant contract.
- b. The Department will require that a public hearing with reasonable notice be conducted by the grantee if the proposed amendment is determined to be a substantial change in project activities contained in the original application for CDBG funds.
- c. Substantial changes in project activities may also obligate the grant recipient to publish legal notices and to conduct additional environmental analysis in order to comply with federal environmental requirements.